

BOARD OF APPEALS CASE NO. 5022

*

BEFORE THE

APPLICANTS: Frank & Jeanette Ford

*

ZONING HEARING EXAMINER

**REQUEST: Variances to construct a
sun room and to permit an existing shed
and swimming pool within the required
setbacks; 303 Stillmeadow Drive, Joppa
HEARING DATE: June 28, 2000**

*

OF HARFORD COUNTY

*

Hearing Advertised

Aegis: 4/19/00 & 4/26/00

Record: 4/21/00 & 4/28/00

*

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Frank and Jeanette Ford, are seeking a variance pursuant to Section 10.05 of Ordinance 6 to allow a sunroom to be constructed on an existing concrete patio within the required 35 foot setback (25 feet proposed); a variance pursuant to Sections 267-26C(5)(b) and 267-26D(3) of the Harford County Code to allow an existing shed and existing pool within the required setbacks.

The subject property is located at 303 Stillmeadow Drive, Joppa, Maryland 21085 in the subdivision of Joppatowne. The parcel is more particularly identified on Tax Map 69, Grid 2C, Parcel 164 and is located entirely within the First Election District. The parcel consists of 0.219 acres and is zoned R3/CDP Urban Residential District/Community Development Project.

The Applicant, Mr. Frank Ford, appeared and testified before the Hearing Examiner. Mr. Ford testified that there is an existing concrete patio to the rear of his house, as well as an existing shed and above-ground pool. Mr. Ford wishes to construct an enclosed sunroom on the existing slab. The slab will not be enlarged and the sunroom will be stick constructed with siding and roof to match the existing dwelling. The patio, shed and pool all encroach to some small degree into the setbacks required for this lot in this zoning district. The patio, for example encroaches 10 feet, the shed 1.5 feet and the pool by 4 feet.

Case No. 5022 – Frank & Jeanette Ford

The Applicant further stated that the patio and proposed sunroom could not be located in a more practical location and that their sunroom would be much like others located within the neighborhood. They were unaware of the need for a variance when they rebuilt an older shed. The lot is irregularly shaped and does not permit relocation of the pool unless it is placed on top of the existing concrete patio. That placement would, of course, render it impossible to construct the sunroom enclosure. The shed is located behind a stand of trees. In order to gain the 1.5 feet needed for setback conformity the trees would need to be removed. The shed sits to the rear of the lot and is screened from the right and left by large pine trees at its present location. In short, there is no other practical location for sunroom, pool and shed than those proposed.

The Department of Planning and Zoning also concurs with the position of the Applicant and recommends approval of the requested variances.

There were no persons who appeared in opposition to the request.

CONCLUSION:

The Applicable Sections of the Code are:

Section 267-26C(5)(b)

“Residential detached accessory structure: six (6) feet from any principal structure and three (3) feet from side or rear yard lot lines except for lots with recorded easements. For lots with recorded easements, the setback shall be equal to the width of the recorded easement.”

Section 267-26D(3)

“Recreation facilities, such as swimming pools and tennis courts, if the facilities are used by the occupants or guests of the principal use and no admission or membership fees are charged, provided that the edge of the facility, not including security fences, shall be located not less than ten (10) feet from any side or rear lot line. For community pools and tennis courts, the edge of the facility shall be located not less than fifty (50) feet from any residential unit or side and rear lot line.”

Case No. 5022 – Frank & Jeanette Ford

Joppatowne was developed under the 1957 Ordinance which, when its terms are applied to this parcel, require a 35 foot setback for structures.

The Harford County Code, pursuant to Section 267-11 permits variances provided that:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

Based on the testimony presented and the report of the Department of Planning and Zoning, the Hearing Examiner finds that the subject parcel is topographically unique in that it is irregularly shaped, very small and sloping, limiting placement of such things as sheds, pools and patios as are normally associated with a residential use such as this. The approval of the request will not have any adverse impacts on adjacent properties or result in an impact to the health, safety or welfare of others in the neighborhood. There is no other practical location for the patio, pool and shed on this property and they have existed for some time, as is and in their present placement, without detrimental impact to adjacent properties or property owners. The only real change requested is the construction of a sunroom on an existing patio which will certainly have no adverse impacts. Clearly, a refusal of the Applicant's request would result in practical difficulty if not real hardship.

Consequently, the hearing Examiner recommends approval of the Applicant's request subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the sunroom, pool and shed.
2. In the event the pool or shed requires future replacement, no enlargement will be permitted.

Date JULY 24, 2000

William F. Casey
Zoning Hearing Examiner